

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

TRAVIS WAYNE BENTLEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-25-00392-JD
)	
KEVIN J. STITT, Governor of Oklahoma;)	
MARGRET GREEN, Warden;)	
T. SCHUMACHER, Hon. District Judge;)	
GREG MASHBURN, District Attorney; FNU)	
PEVEHOUSE, Mr, A.D.A., Cleveland County;)	
CHRIS NOEL, Cleveland County Sheriff's)	
Deputy; CHARLES GREGORY, Cleveland)	
County Sheriff's Deputy; KENNY MADDEN,)	
Cleveland County Sheriff's Deputy; KRISTY)	
WILSON, Cleveland County Sheriff's Deputy;)	
JEFF CRISWELL, Cleveland County Sheriff's)	
Deputy; DAVID B. LEWIS, Hon. Oklahoma)	
Court of Criminal Appeal Judge; DANA)	
KOEHN, Hon. Oklahoma Court of Criminal)	
Appeal Judge; GARY LUMPKIN, Hon.)	
Oklahoma Court of Criminal Appeal Judge;)	
ROBERT L. HUDSON, Hon. Oklahoma)	
Court of Criminal Appeal Judge;)	
SCOTT ROWLAND, Hon. Oklahoma Court of)	
Criminal Appeal Judge; JENNIFER CRABB,)	
Assistant Attorney General,)	
)	
Defendants.)	

ORDER

Before the Court is the Report and Recommendation ("R. & R.") [Doc. No. 8] of United States Magistrate Judge Chris M. Stephens, recommending that Plaintiff's action brought under 42 U.S.C. § 1983 be dismissed without prejudice for Plaintiff's failure to state a claim upon which relief may be granted, pursuant to 28 U.S.C. § 1915A(b)(1).

See R. & R. at 3.

Judge Stephens advised Plaintiff of his right to object to the Report and Recommendation by May 20, 2025. Judge Stephens warned Plaintiff that his failure to object timely waives the right to appellate review of the factual and legal issues in the Report and Recommendation. *See R. & R.* at 5.

Plaintiff did not file an objection to the Report and Recommendation. Therefore, Plaintiff has waived any objection to the Report and Recommendation recommending dismissal without prejudice. *See Ayala v. United States*, 980 F.2d 1342, 1352 (10th Cir. 1992) (holding that the plaintiffs “waived their right to appeal the magistrate’s ruling” because they did not file any objections); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996) (“[A] party’s objections to the magistrate judge’s report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.”).

Alternatively, although the Court is not required to conduct a de novo review of the Report and Recommendation unless a party timely objects, *see* 28 U.S.C. § 636(b)(1), the Court has conducted such a review and concludes that dismissal without prejudice is appropriate. Plaintiff’s allegations in his complaint are construed as an attack on his conviction and sentence and thus are not properly brought as a civil rights action under § 1983. Plaintiff, therefore, has failed to state a claim for which relief may be granted in this purported § 1983 action.

For these reasons, the Court ACCEPTS the Report and Recommendation [Doc. No. 8] construing the complaint as failing to state a claim under § 1983 and DISMISSES

this action WITHOUT PREJUDICE.¹ The Court DENIES Plaintiff's Motion to File in Forma Pauperis [Doc. No. 2], Motion for Appointment of Counsel [Doc. No. 3], and Motion to Amend Petition [Doc. No. 6].

IT IS SO ORDERED this 27th day of May 2025.

A handwritten signature in black ink, appearing to read "Jodi W. Dishman", is written over a horizontal line.

JODI W. DISHMAN
UNITED STATES DISTRICT JUDGE

¹ To the extent this action filed under 42 U.S.C. § 1983 is construed as an action for habeas relief under 28 U.S.C. § 2254, which was an alternate basis provided by Judge Stephens in his Report and Recommendation that also was not timely objected to, the Court denies a certificate of appealability.